



PUBLIC NOTICE

Federal Communications Commission
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DA 07-5008

Released: December 14, 2007

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON A
REQUEST FOR WAIVER FILED BY THE BALDWIN FIRE DISTRICT, NEW YORK
TO OPERATE A PUBLIC SAFETY RADIO SYSTEM USING TELEVISION CHANNEL 19 AND
PART 22 TRUNKED MOBILE FREQUENCIES**

FCC File No. 0003023736

Comment Date: January 4, 2008

Reply Comment Date: January 14, 2008

The Public Safety and Homeland Security Bureau seeks comment on the above-captioned application and waiver request, as amended, initially filed on May 9, 2007 by the Baldwin Fire District, New York (Baldwin).¹ Baldwin seeks waiver relief pursuant to Section 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 337(c), to use, for public safety communications purposes, two frequencies in the television (TV) Channel 19 Band (500-506 MHz) and two frequencies allocated for Part 22 trunked mobile operations. Specifically, Baldwin seeks frequencies 502.525, 505.525, 479.0625, and 479.1625 MHz.² In the alternative to Section 337(c) of the Act, Baldwin requests waiver relief pursuant to Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925. On May 25, 2007, the Commission granted Baldwin Special Temporary Authority (STA) to permit secondary operation on frequency pair 502/505.525 MHz under Call Sign WQGY612. On September 27, 2007, the Commission granted Baldwin's request to add frequencies 479.0625 and 479.1625 MHz to the STA.

TV Channel 19 is allocated to private land mobile radio service in the Philadelphia, Pennsylvania urbanized area, but not in the New York/Northeast New Jersey urbanized area where Baldwin is located. *See* 47 C.F.R. §§ 90.303, 90.305. Therefore, frequency pair 502/505.525 MHz within the TV Channel 19 Band is not allocated for use at Baldwin's location. In addition, Baldwin's operations would be located less than ninety miles from adjacent TV Channel 20 Station WTXN, Waterbury, Connecticut. *See* 47 C.F.R. § 90.307(d). Finally, Part 22 of the Commission's rules allocates frequencies 479.0625 and 479.1625 MHz for trunked public mobile service, while Part 20 of the Commission's rules states that these frequencies shall be regulated as a commercial mobile radio service. *See* 47 C.F.R. §§ 22.651, 20.9(a)(6). Therefore, these frequencies are not allocated for public safety operations. Accordingly, Baldwin requests a waiver of Sections 20.9(a)(6), 22.651, 90.303, 90.305(a), and 90.307(d) of the Commission's rules.

¹ *See* File No. 0003023736 (filed May 9, 2007, amended May 10, 2007, May 25, 2007, Aug. 3, 2007, and Dec. 13, 2007) and associated Amended Request for Waiver (Waiver Request).

² *See* Waiver Request at 4.

Baldwin is located approximately twenty-five miles from New York City and serves three communities near the south shore of Long Island, New York – Baldwin, Oceanside, and Rockville Centre.³ Baldwin maintains that its existing operations in the 30-50 MHz band are subject to significant interference potential, given its proximity to other public safety providers as well as “numerous transmitter sites for commercial wireless communications providers.”⁴ Further, Baldwin states that its 46.10–46.20 MHz dispatch/operations channel, as well as fireground frequency 46.30 MHz that it shares with Nassau County, are “excessively loaded” and therefore fail to provide coverage across its service area.⁵ Baldwin states that on several occasions, its lack of coverage prevented radio transmissions in critical, potentially life-endangering situations.⁶

According to Baldwin, its radio vendors suggested that its interference problems were caused by a lack of repeater sites and that digital simulcast technology would serve as an appropriate solution.⁷ However, because simulcasting requires relatively interference-free frequencies, and given the level of interference affecting Baldwin’s dispatch and fireground channels, Baldwin proposes to construct a new system.⁸ Baldwin states that the proposed system would provide redundant, ubiquitous coverage throughout the combined service areas of Baldwin and neighboring communities for whom Baldwin would provide dispatch service.⁹ Specifically, the proposed system would have one pair of 12.5 kHz bandwidth channels (502/505.5250 MHz) dedicated to voice dispatch operations.¹⁰ The proposed system would also dedicate to fireground operations two 12.5 kHz bandwidth simplex channels (479.0625 and 479.1625 MHz),¹¹ which are not otherwise available for assignment to public safety entities under Part 90 of the Commission’s rules, 47 C.F.R. Part 90.

As a part of the analysis under Section 337 of the Act, as well as the Commission’s waiver criteria, we also seek comment on whether the 700 MHz public safety band would provide a viable alternative, particularly in light of the approaching February 17, 2009 digital television transition date, and the Commission’s recent actions in facilitating a nationwide, interoperable public safety network.¹²

Interested parties may file comments on the application and waiver request on or before January 4, 2008. Parties interested in submitting reply comments must do so on or before January 14, 2008. All comments and reply comments should reference the subject waiver request, including the DA number of this *Public Notice*. Filings can be sent by hand or messenger delivery, by commercial overnight courier,

³ See Waiver Request at 1.

⁴ *Id.* at 3. Baldwin’s existing system is Station KEB486.

⁵ See Waiver Request at 2-3.

⁶ *Id.* at 3.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* “Fireground” operations include are radio frequencies to be used by radio units operating in the area at the scene of a fire. See, e.g., http://encarta.msn.com/dictionary_/fireground.html, (last visited Dec. 14, 2007).

¹² See Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229; Development of Operational, Technical and Spectrum Requirements for Meeting Federal State and Local Public Safety Communications Requirements through the Year 2010, WT Docket No. 96-98, *Second Report and Order*, 22 FCC Rcd 15289 (2007).

or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue NE, Suite 110, Washington DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express, and Priority mail must be sent to 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.

The application and waiver request can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the waiver request, comments, and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site, <http://www.bcpiweb.com>, by email at fcc@bcpiweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Lisa Williams, RIC, (20) 418-1352.

Because of the policy implications and potential impact of this proceeding on persons not party to the waiver request, we believe that it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Thomas Eng of the Policy Division, Public Safety and Homeland Security Bureau at (202) 418-0019, TTY (202) 418-7233, or via e-mail to Thomas.Eng@fcc.gov.

By the Deputy Chief, Public Safety and Homeland Security Bureau.

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